



## **Medical Quality Assurance Commission**

**January 15, 2010**

### **Business Meeting Minutes**

#### **Medical Commission Members**

Bruce Andison, MD  
Les Burger, MD, Chair  
Mike Concannon, Public Member  
Frederick Dore, MD  
William Gotthold, MD  
Ellen Harder, PA-C  
Frank Hensley, Public Member, 2<sup>nd</sup> Vice-Chair  
Judith Page, Public Member  
Anthony Robins, MD  
Samuel Selinger, MD  
Judy Tobin, Public Member

Richard Brantner, MD  
Athalia Clower, PA-C - absent  
Bruce Cullen, MD  
Theresa Elders, Public Member  
Thomas Green, MD  
Susan Harvey, MD  
Mark L. Johnson, MD  
Mimi Pattison, MD, 1<sup>st</sup> Vice-Chair  
Linda Ruiz, Public Member  
Anjan Sen, MD - absent

#### **Medical Commission Staff**

Maryella Jansen, Executive Director  
Beverly Teeter, Deputy Executive Director  
Julie Kitten, Program Manager  
Mike Kramer, Compliance Officer  
Karen Caille, Staff Attorney  
Peter Harris, Staff Attorney

Mike Farrell, Legal Manager  
George Heye, MD, Medical Consultant  
Jim McLaughlin, Staff Attorney  
Mike Bahn, Staff Attorney  
Larry Berg, Staff Attorney  
Jim Smith, Chief Investigator

#### **Others in Attendance**

Melissa Burke-Cain, AAG  
Tim Layton, WSMA  
Steve Scott  
Dominic Martini  
Gil Mobley, MD  
Joseph Vesikune

Mike Tribble, AAG  
Mantas Likus  
Melissa Leggee  
Justin Vance  
Jonathan Vesikune

#### **BUSINESS MEETING** **CALL TO ORDER**

Les Burger, MD, Commission Chair, called the meeting of the Washington State Medical Quality Assurance Commission (MQAC) to order at 8:00 a.m. on January 15, 2010, at the Holiday Inn Seattle at Renton, One South Grady Way, Renton, Washington 98057.

## 1.0 CHAIR REPORT

The Chair reported that Anjan Sen, MD and Athalia Clower, PA-C would not be in attendance at this meeting. Dr. Burger welcomed Bill Gant, Chair of the Board of Osteopathic Medicine and Surgery, to the meeting. Dr. Burger reported that Mr. Gant was in attendance for the discussion on the medical marijuana petition.

Dr. Burger reported that the rules hearings that were held the evening of January 14, 2010 went very well. Dr. Burger stated the rules are a very critical and important part of the work the Commission does and with these rules we have an incredible impact on the quality of care in our state. Following is the outcome of each of the rules hearings:

- Office-Based Surgery: These rules were deferred for further review and action.
- Non-Surgical Medical Cosmetic Procedures: These rules were discussed at length, and approved by a quorum of the Commission.
- Temporary Practice Permits: There was no public attendance for these rules, and they were approved by a quorum of the Commission.

Dr. Burger also reported on meetings that had taken place since the December Commission meeting:

- Dr. Burger and Maryella Jansen, Executive Director, met with both Representative Eileen Cody, Chair of the House Health Care and Wellness Committee, and Senator Karen Keiser, Chair of the Senate Health & Long-Term Care Committee. Dr. Selinger joined the meeting with Senator Keiser. Both of these meetings were very productive. Representative Cody and Senator Keiser are very receptive and appreciative of the success the Commission has had so far as a pilot and they continue to support the Commission.
- Dr. Burger and Ms. Jansen attended the Executive Committee Meeting of the WSMA to discuss several items of interest to both parties.
- Dr. Burger, Ms. Jansen, Mimi Pattison, MD, Tom Green, MD, and Bruce Cullen, MD met with University of Washington staff, and discussed how the Commission can interact with the University at the student level, (i.e., introduce them to what we do, what their responsibilities are, etc.), and those conversations will be ongoing. Dr. Burger and Dr. Cullen met with Larry Robinson, Associate Dean on how to reach out to the various residency programs.

Dr. Burger reported that the Citizen Advisory Group has now become a member organization and they are asking State boards to join them. Dr. Burger reported the Commission will be joining this organization, and the Commission members would soon be receiving newsletters from this group.

Dr. Burger reported that several conversations have taken place with Representative Campbell regarding alternative medicine. Dr. Burger further reported that staff is beginning to look at intake assessment numbers over the last year, to see how many cases have been brought to the Commission, that deal with alternative medicine

providers.

Dr. Burger asked the Commission members to provide feedback to the Executive Committee on how they feel things are going, and what can be done better.

## **2.0 CONSENT AGENDA**

The Consent Agenda contained the following items for approval:

- 2.1** Minutes from December 4, 2009 business meeting
- 2.2** Agenda for January 15, 2010
- 2.3** Ratification of the licenses issued to Physicians, Limited Physicians and Physician Assistants from December 4, 2009 through January 14, 2010.

**MOTION:** The Chair entertained a motion to approve the Consent Agenda as written. The motion was seconded and approved unanimously.

## **3.0 OLD BUSINESS**

### **3.1 Communications Plan**

Dr. Burger reported on the following items with regard to the Commission's communication plan:

- Dr. Burger asked Beverly Teeter, Deputy Executive Director, for an update on the tri-fold brochure. Ms. Teeter reported that work is continuing on the brochure, which will include Strategic Plan information.
- Ms. Teeter also reported that work is continuing on the Commission's web site, and it is almost complete. She reported that the address will be [www.doh.wa.gov/hsqa/MQAC/default](http://www.doh.wa.gov/hsqa/MQAC/default).
- The Commission's decision package is included in the Department's budget that went forward to the legislature.
- Dr. Burger reported that Judy Tobin, Public Member, and Terri Elders, Public Member, have put together some talking points for public outreach.

Dr. Selinger suggested a slide or two about the physician/physician assistant relationship be added to our PowerPoint presentation.

Dr. Burger encouraged all of the Commission members to get out to professional groups, public groups, legislators, administrator groups, etc., and get the word out about what the Commission is doing.

### **3.2 Interagency Workgroup to Prevent Prescription Opioid Misuse**

Dr. Burger reported that the Department Web site is up, which is a good information exchange. He also reported that Gary Franklin, MD, Medical Director for Labor and Industries and his workgroup had met again regarding the medical agency directors guidelines. They hope to revise these guidelines

and have them published soon.

Dr. Burger reported that he and Ms. Jansen met with Jeff Thompson, MD, a physician with DSHS, on how to deal with physicians prescribing large amounts of opioids. Ms. Jansen reported that the information they heard from Dr. Thompson was echoed in a hearing last Thursday, January 7, 2010, in the House Health Care Committee, regarding Representative Moeller's bill (House Bill 2391) requiring mandatory continuing medical education for all prescribers. She further reported that the House Health Care Committee considers this an emergent issue in this state (we are number one in opioid deaths and number one in pharmacy robberies). Ms. Jansen stated we will be hearing more on this from the legislature.

Dr. Burger reported that the Policy Committee will be looking at current pain management rules and guidelines, and bring their recommendation forward regarding revision of these documents to the Executive Committee. Susan Harvey, MD, stated that the Commission needs to take the initiative and be proactive in this area. Linda Ruiz, Public Member, Chair of the Policy Committee, asked that any Commission member that was interested in helping with these rules/guidelines to let her know. Dr. Pattison, William Gotthold, MD, and Dr. Harvey expressed interest in helping out. Concerns were expressed:

- Don't set standards that cannot be met
- This is a great idea on the surface, however, national organizations and other state regulatory bodies have not been able to do so
- Don't make standards so onerous that physicians won't sign up to treat Medicaid patients

### 3.3 Quality Improvement Program – Washington State Medical Association (WSMA)

Dr. Burger stated that this program was discussed at the meeting with the WSMA Executive Committee. He reported that the essence of this program is that a physician be identified before they get into trouble with the Commission and offered a program where they are in practice to improve that aspect of care. Dr. Burger further reported that who is to develop that program and how it is to be executed and monitored has not yet been determined. The University of Washington SOM and Washington Physicians Health Program were two organizations mentioned. Dr. Burger stated during that meeting, that the Commission was supportive of this concept. Ms. Jansen reported that during a conversation with Tim Layton and Carl Nelson, they informed her that the WSMA had put together legislation regarding a quality improvement program, and we may see the introduction of this concept in this legislative session.

**3.4 Joint Operating Agreement (JOA)**

Ms. Jansen reported the JOA was still with Karen Jansen, Assistant Secretary, Health Systems Quality Assurance for review, and there was nothing new to report at this time.

**3.5 Providence Centralia Hospital Letter Regarding Patient "Dumping"**

Dr. Pattison reported that the WSMA Judicial Council had reviewed Dr. Juan Iregui's ethical opinion, and agreed with that opinion, that physicians do not have an ethical obligation to follow their patients to the nursing home; however, they do have an ethical obligation to disclose up front, what services they will or will not provide. Dr. Pattison reminded the Commission that Providence Centralia Hospital had already come up with a solution to this issue, and suggested this matter be closed, and provide Providence Centralia Hospital with a response to their letter. The Commission agreed, and this matter was closed. Dr. Burger thanked Dr. Pattison for overseeing this issue.

**4.0 NEW BUSINESS**

**4.1 Medical Marijuana Petition**

Ms. Tobin, co-chair of the Medical Marijuana Petition Hearing Committee, reported on the committee's recommendation to deny the petition, due to no scientific evidence of efficacy of marijuana in the treatment of these conditions. Mr. Gant also reported briefly on the letter the Board of Osteopathic Medicine and Surgery had written to Dr. Burger. Mr. Gant stated the board is obligated to make an evidence-based decision, and he stated their recommendation is to deny the petition, stating that evidence does not support adding these conditions to the list of terminal or debilitating conditions permitted under RCW 69.51A.070.

**MOTION:** The Chair entertained a motion to deny the medical marijuana petition to add bipolar disorder, severe depression and anxiety related disorders, specifically social phobia, to the list of terminal or debilitating conditions for which medical marijuana may be beneficial under RCW 69.51A.070, with the caveat of how do we go about getting research done which is so desperately needed, and ease of access across the state. The motion was seconded, and unanimously approved.

A court reporter was present during this portion of the meeting, and a transcript of the entire discussion is available through public disclosure. The contact information is:

Public Disclosure Records Center  
PO Box 47865  
Olympia, WA 98504-7865  
Phone: (360) 236-4836  
Fax: (360) 586-2171

#### 4.2 Legislative Report

Ms. Jansen reminded the Commission that the legislative session began on January 11 and will close on March 11, 2010. Ms. Jansen reported on current profession specific bills and bills with cross profession impact:

- Senate Bill 6305 – Establishes a prescriber education program
- House Bill 2543 – Medical Commission disciplinary process
- House Bill 2544 – Informed consent
- House Bill 2391 – Requires certain health professionals to complete pain management education

Dr. Burger thanked staff for their work during this already very busy legislative session.

#### 4.3 Closure Letters

Dr. Burger reported that some of the closure letters have been simplified, and copies of those letters will be provided in the Business packet for the March meeting. Dr. Burger further reported that a letter is now being sent to all new licensees welcoming them to Washington State, and encouraging them to visit our Web site to learn more about the Commission.

#### 4.4 Meeting Structure

Dr. Burger reported that the Governor has recommended elimination of some boards and commissions. Dr. Burger stated this is an opportunity for the Commission to look at how we do our business and try to make our meetings more efficient. Dr. Burger stated our objective is to keep the meetings to two days. Ms. Teeter distributed some meeting options to the Commission members. Some suggestions were:

- Look at the consent agenda
- Look at the number of compliance appearances – who do we really need to bring back before the panels, and the frequency.
- Unfair burden to work late evenings
- Divide panels into two and run four compliance meetings at one time
- Look at meetings on Wednesdays and Thursdays – Friday traffic is awful
- Streamline the agreed order process
- Wednesdays and Thursdays would be too onerous
- Breaking up panels into smaller groups others may lose the expertise of listening to what other members are doing with their cases.
- Put as much as possible into the daytime.
- Open public meetings need to be accessible to the public
- Executive Committee by teleconference
- Keep case reviews first thing in the morning while everyone is fresh

Dr. Burger stated we will continue to look at ways to make the meetings more efficient.

Ms. Teeter also asked the Commission to consider moving the December 2010 and January 2011 meetings one week ahead to provide staff more time to prepare. She stated with the holidays, and staff and Commission member vacations; it makes it extremely difficult to meet deadlines. The Commission approved moving the meetings to December 9-10, 2010 and January 20-21, 2011.

## **5.0 MEMBER REPORTS**

- 5.1** Ms. Ruiz reported that the Policy Committee did not meet, however they had been working on a draft charter outlining the responsibilities of the Policy Committee. She further reported that this draft charter is with the Executive Committee now, and she hopes it will be on the agenda for the March meeting since the full Commission needs to authorize and delegate authority to the Policy Committee.

Ms. Ruiz reported that the Policy Committee would be reviewing the pain management rules and guidelines, as well as discussing whether a neuro-psychological evaluation should always be included when the Commission asks for a cognitive evaluation. The Policy Committee will also be reviewing current policies and rules to see if they need to be updated.

Ms. Ruiz asked that if any Commission members, who were not already a member of the Policy Committee, were interested in serving on this committee to let her know (membership on the committee must be less than a quorum of the Commission). Ms. Ruiz asked that if any Commission member had something they felt the Policy Committee should look at and bring a recommendation to the full Commission, to please let her know.

- 5.2** Dr. Selinger thanked Ms. Teeter, and Mike Farrell, Legal Unit Manager, for their hard work on the non-surgical medical cosmetic procedures rules.
- 5.3** Dr. Burger reported that a copy of the MASTR would be provided at the March meeting.

## **6.0 STAFF MEMBER REPORTS**

### **6.1 Executive Director –**

Ms. Jansen reported that the Commission has been asked to do a joint health map presentation about the pilots with the Nursing Commission in November 2010 before Secretary Selecky's senior management team. Ms. Jansen stated this is a very good opportunity for the Commission to present information on the

Strategic Plan and performance measures.

Ms. Jansen also wanted to let the Commission know how hard the current legislative session has been on staff. Staff is extremely worried about budget issues. She reported there is currently a bill in the legislature that would close all state government offices for one day a month through June 30, 2011. This would be a day without pay for employees.

Ms. Jansen stated the value of weekly meetings with senior management and the Executive Committee; staff is able to provide information in a timely manner about current issues.

**6.2 Assistant Attorney General -**

Melissa Burke-Cain had nothing to report at this time.

**6.3 Deputy Executive Director -**

Ms. Teeter reminded the Commission about the quarterly report to the Public Disclosure Commission on legislative contacts. She needs to know from each Commission member:

- Have you had a legislative contact, yes or no
- When
- With whom
- How long was the meeting
- What was the subject matter

**6.4 Program Manager –**

Julie Kitten, Program Manager, had nothing to report.

**6.5 Medical Consultant -**

George Heye, MD, reported that the reviewing commission member (RCM) with the most cases last year was Frederick Dore, MD, and Dr. Cullen was second, the second year in a row. He further reported that Sam Selinger, MD, and William Gotthold, MD had tied for third. Terri Elders, Public Member, had the most cases for a public member.

**6.6 Legal Manager -**

Mike Farrell, Legal Unit Manager, reported that at the beginning of October 2009, there were 117 outliers, and at the beginning of January 2010 that number was down to 74. Mr. Farrell reported that the Commission is no longer 100% in compliance with the Sanction Rules due to one Order from a hearing that did not contain a section addressing the sanction rules. He reminded the Commission members that if they are in a hearing, that section must be in there, or it is considered an outlier.



**6.7 Chief Investigator –**

Jim Smith, Chief Investigator wanted to acknowledge Bill Crowell, PA-C Investigator, and Tim Slavin, Investigator, for stepping in and keeping up with everything in the Investigations Unit, while he was out of the office.

**6.8 Disciplinary Manager –**

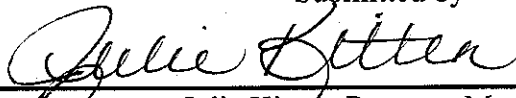
Dani Newman, Disciplinary Manager, was not in attendance.

**7.0 ADJOURNMENT**

Prior to adjournment, Dr. Burger reported that two pro tem members were utilized during case reviews on January 14. Robert Small, MD attended case reviews and presented a case. David Benson, MD, DO, presented a case via the phone. Commission members felt both pro tem members contributed greatly and were very beneficial to the case reviews.

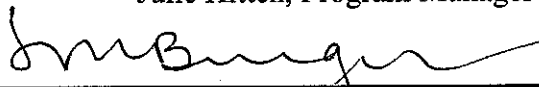
The Chair called the meeting adjourned at 10:00 a.m.

Submitted by



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Julie Kitten, Program Manager



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Leslie M. Burger, MD, FACP, Chair  
Medical Quality Assurance Commission

Approved March 5, 2010